of the fixed requirement that the record must be kept in discharge of official duty, and it is submitted that the limitation is not a desirable one. In the United States it has never been definitely accepted. See WIGMORE, EVIDENCE, § 1634. But the second objection taken by the court, that the records were only for a temporary purpose and not of a permanent character, is valid, and on this point the principal case may be supported. *Hegler* v. *Faulkner*, 153 U. S. 109. In the United States, post-office records have been generally considered within the public document exception. *Gurney* v. *Howe*, 9 Gray (Mass.) 404. But the records admitted are kept by the direction of the Post-Office Department and the postmaster is bound to see that they are correct and to certify the facts to the Department. See *Miller* v. *Boykin*, 70 Ala. 469, 478. The records in the principal case would perhaps be more properly admissible under the entry in the course of business exception to the hearsay rule. But failure to account for the absence of the entrant is conclusive against this possibility. See WIGMORE, EVIDENCE, § 1521.

EXECUTORS AND ADMINISTRATORS — ADMINISTRATION — INDEBTEDNESS OF HEIR TO ESTATE AS LIEN ON HIS SHARE OF THE REALTY. — An heir owed the estate more than the value of his distributive share of the real estate. After the Probate Court had refused the indebted heir participation in the distribution thereof, judgment creditors of this heir levied on his alleged interest in the realty. The other heirs brought a bill in equity for a decree to quiet their title to such real estate, free from any lien on the part of the judgment creditors. *Held*, that the relief should be granted. *Stenson* v. *Halvorson*, 147 N. W. 800 (N. D.).

It is considered that the indebtedness constitutes a prior equitable lien upon the debtor's distributive share of the real estate. Admittedly personal property, which vested in the administrator, could be charged with a distributee's indebtedness, but at common law the rule was clearly otherwise as to realty, which passed directly to the heir free of all charges. See *Smith* v. *Kearney*, 2 Barb. Ch. (N. Y.) 533, 547; 9 HARV. L. REV. 157. But under modern statutes, such as that in the principal case, which treat real and personal property alike, as descendible subject to administration, many courts have stretched a point to allow the administrator to withhold real estate from an indebted heir. *Streety* v. *McCurdy*, 104 Ala. 493, 16 So. 686; *Oxsheer* v. *Nave*, 90 Tex. 568, 40 S. W. 7. This result is not without vigorous dissent. *Marvin* v. *Bowlby* 142 Mich. 245, 105 N. W. 751; *La Foy* v. *La Foy*, 43 N. J. Eq. 206, 10 Atl. 266. Some courts distinguish between real estate and surplus proceeds in administrator's hands from the sale thereof. *Fiscus* v. *Moore*, 121 Ind. 547, 23 N. E. 362. This distinction is probably unsound, for such funds are not personal assets, but in equity are still realty, subject to the lien of judgment creditors of the heir. *Cf. Simonds* v. *Harris*, 92 Ind. 505. See *Streety* v. *McCurdy*, *supra*, 687. The principal case reaches an equitable and practical result, and agrees with the modern tendency to abolish the artificial difference in the administration of intestate real and personal property.

FIXTURES — REMOVAL — EFFECT OF NEW LEASE ON TENANT'S RIGHT OF REMOVAL. — A tenant in possession installed agricultural fixtures with the understanding that he should have the right to remove them. Subsequently he took out a new lease, which described the premises in general terms and reserved no right to remove the articles affixed. There was in addition a covenant to yield up the premises in as good repair as when taken. The landlord now sues the tenant for removing the fixtures. *Held*, that he cannot recover. *Sassen* v. *Haegle*, 147 N. W. 445 (Minn.).

The court speaks as though the fixtures remained personalty. Grant this, and tenant's right of removal is unquestionable. Probably, however, the court